

Kobayashi reference as non-analogous art, or art that teaches away from the present invention. It would be highly unlikely that an artisan would combine Kobayashi and Sumida to arrive at the presently claimed invention.

On the basis of the amendment above and the absence of sufficient teaching by the cited references, it is respectfully submitted that these patent documents cannot make obvious the presently claimed invention.

Claims 1, 2, and 4-10 are rejected under 35 U.S.C. §103(a) as unpatentable over Koyanagi (sic) et al. (U.S. Pat. No. 5,474,776)

The Examiner contends that it would have been obvious to and thereby arrive at the Applicants' invention in light of Koyanagi et al. Applicants respectfully traverse this rejection.

Koyanagi discloses transparent cleansing compositions that contain hydrophilic, nonionic surfactants, an amphoteric surfactant, a water-soluble compound containing at least one hydroxy group, a liquid oil and water. The claimed water level is from 1% to 40% and preferably disclosed in Tables 1, 2 and 3 at levels from 5% to 15%. This is considerably below the level of the present invention's minimum level of 60%. Aside from the water level difference, Koyanagi provides no motivation to select the specific surfactant combination as now claimed. This is particularly evident wherein Koyanagi discloses that its composition is preferably (and not necessarily limited to) hydrophilic nonionic surfactant having an HBL value higher than 9. This encompasses hundreds of surfactant classes and members of those classes including those found starting at column 2 and ending at column 4. Only by using hindsight could one skilled in the art apply this teaching, and arrive at the specific claimed combination. Such use of hindsight is impermissible.

On the basis of the amendment above and the absence of sufficient teaching by Koyanagi, it is respectfully submitted that this patent cannot make obvious the presently claimed invention

CONCLUSION

Applicants have made an earnest effort to place their application in proper form and to distinguish their invention from the applied prior art. WHEREFORE, Applicants respectfully request the reconsideration of this application, entry of the amendments presented, withdrawal of the rejections under 35 U.S.C. §112 and §103 and allowance of Claims 1-2 and 4-10.

Respectfully submitted,

By


John M. Howell

Attorney for Applicants

Registration No. 33,713

Tele. No.: (513) 626-3792

October 1, 2002

Customer No. 27752

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION

CROSS REFERENCE TO RELATED APPLICATION(S)

This application is a continuation of U.S. Application Serial No. 09/868,256, filed June 15, 2001, which is a 371 of PCT/US98/27228, filed December 22, 1998.

IN THE SPECIFICATION

At page at page 2, lines 26-28, second paragraph under **Detailed Description** should read:

--All percentages, ratios, and levels of ingredients referred to herein are based on the actual[ly] total [amount]weight of the composition, unless otherwise indicated.--

IN THE CLAIMS

1. A transparent skin care composition comprising:
- (a) from about 0.001 to about 5.0% of [two or more]a surfactant[s] combination comprising i), ii), and iii) wherein i) is a [including a first surfactant being]polyoxyethylene sorbit tetraalkyl ester, ii) is a [and a second surfactant selected from the group consisting of] polyoxyethylene castor oil[;] ester and/or polyoxyethylene hydrogenated castor oil ester; and iii) is a polyoxyethylene alkyl phosphate [and its]or salts[; and mixtures thereof];
 - (b) from about 0.001 to about 5.0% of an oil compound;
 - (c) from about 0.01 to about 10% of a polyhydric alcohol; and
 - (d) from about 60 to about 99.8% of water;
- wherein the oil compound is substantially solubilized in the transparent skin care composition[and the ratio of said first surfactant to said second surfactant is from about 4 : 1 to about 2 : 3].

4. The transparent skin care composition of Claim 2, wherein the ratio of polyoxyethylene alkyl phosphate or salts to polyoxyethylene castor oil [ester] and/or polyoxyethylene hydrogenated castor oil ester is from about 4:1 to about 2:3.